



**PERSONAL LIABILITY OF CORPORATE OFFICER
AND LIMITED LIABILITY COMPANY GOVERNOR/MANAGER**
NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER
SFN 21916

Personal Liability for Provider Assessment for Intermediate Care Returns and Payment of Assessment

North Dakota Century Code § 57-63-08(2) allows a corporation or limited liability company (LLC) (Provider) to post a bond with the Office of the State Tax Commissioner (Commissioner) if its corporate officer(s) or LLC governor or manager elects not to be personally liable for failure to file required provider assessment returns or to pay the assessment due. The bond must be a cash deposit or surety bond in an amount equal to the estimated annual assessment liability of the corporation or limited liability company.

The bond is a guarantee of payment for the provider assessment imposed by North Dakota Century Code ch. 57-63. The corporate officer(s) or LLC governor/manager remains liable for provider assessment liabilities incurred before posting a bond. The bond is required for the entire time the corporate officer(s) or LLC governor/manager elects not to be personally liable for the provider assessment. If the surety bond expires, the corporate officer(s) or LLC governor/manager again becomes personally liable for the provider assessment liabilities.

The Commissioner will review the assessment rate and the number of licensed beds each year. If the amount of annual assessment changes significantly, the amount of bond will be adjusted accordingly.

Types of Bond Accepted

❖ **Cash Bond**

A cash bond payment must be in the form of a corporate or LLC check, cashiers check, bank draft or money order. The Commissioner will hold the cash bond as long as the Provider operates a facility subject to the provider assessment. The Commissioner is not authorized to pay interest on monies deposited for a cash bond.

If a Provider ceases to operate all facilities subject to the provider assessment, the Provider may request that the cash bond be released. The Commissioner will release the bond when satisfied that no outstanding provider assessment liability exists for the Provider.

❖ **Surety Bond**

A surety bond may be obtained from your local banking institution or insurance agent. The bond must remain in effect as long as the Provider operates a facility subject to the provider assessment. The Provider must renew the surety bond before any existing bond expires.

If your corporate officer(s) or LLC governor/manager elects not to be personally liable for failure to file required provider assessment returns or to pay the assessment due, please complete the *Election to Post Bond* section on the back side of this form and return to the Office of State Tax Commissioner.

Election to Post Bond

Under North Dakota Century Code § 57-63-08(2), the Provider identified below elects to post a bond to release the corporate officer(s) or LLC governor/manager from personal liability for failure to file required provider assessment returns or to pay the assessment due.

In exchange for this election:

- ❖ The Provider will deliver a fully executed copy of this agreement to the Commissioner.
- ❖ The Provider will disclose annually to the Commissioner, the following information about each intermediate care facility for the mentally retarded it intends to operate during the following year: facility address, Medicaid provider number, and number of licensed beds. The Commissioner will use this information and any other information deemed necessary to determine the amount of bond required.
- ❖ The corporate officer(s) or LLC governor/manager will remain liable for provider assessment liabilities incurred before posting a bond.
- ❖ The bond will remain in effect the entire time the corporate officer(s) or LLC governor/manager elects not to be personally liable for provider assessment liabilities.
- ❖ The Commissioner is not authorized to pay interest on monies deposited if a cash bond is posted.
- ❖ The Provider will assume the responsibility to renew the surety bond before any existing bond expires if a surety bond is posted.
- ❖ The corporate officer(s) or LLC governor/manager will become personally liable for provider assessment liabilities due if the surety bond expires.

The undersigned is authorized to act on behalf of the Provider. The Provider elects to post a bond to release the corporate officer(s) or LLC governor/manager from personal liability for failure to file required provider assessment returns or to pay the assessment due.

Provider (Corporation or LLC Name)

Signature

Federal Tax ID Number

Title

Phone Number

Date